Phil Hovis February 16, 2011 471-0057

Revision: 00

## FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

	ESTIMATE OF FIS	SCAL IMPACT – STA	TE AGENCIES *						
	FY 2011-12 FY 2012-13								
	EXPENDITURES	REVENUE	EXPENDITURES REVENUE						
GENERAL FUNDS									
CASH FUNDS		0		(See below)					
FEDERAL FUNDS									
OTHER FUNDS									
TOTAL FUNDS		0		(See below)					

<sup>\*</sup>Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB536 would adopt the Nebraska Uniform Real Property Transfer on Death Act. Among its provisions, the bill also would amend Sec. 76-902 so as to include transfer on death deeds among those deeds currently exempt from the documentary stamp tax. The current documentary stamp tax rate is \$2.25 per \$1,000 of value. Distribution of the proceeds of the tax is as follows:

- \$1.20 Credited to Affordable Housing Trust Fund (administered by Department of Economic Development)
  - .30 Credited to Behavioral Health Services Fund (administered by Department of Health & Human Services)
  - .25 Credited to Homeless Shelter Assistance Trust Fund (administered by Department of Health & Human Services)
  - .50 Retained by counties as collection fee and credited to respective counties' general fund
- \$2.25 Total documentary stamp tax rate per \$1,000 of value

The Department of Revenue provides estimates of documentary stamp tax revenue impacts as such may result due to the additional exemption that would be granted under provisions of LB536. These estimates are based on an assumption that the proposed exemption of transfer on death deeds would have the same impact as the average impact of the 22 exemptions under current law. The estimates also take into account that LB536 designates January 1, 2012 as its operative date. Additionally, the estimates take into account that federal estate tax is due one year after death and, as such, assume the related revenue impacts will begin to occur in the last quarter of FY 2012-13. Given the foregoing, the Department estimates the following documentary stamp tax revenue impacts associated with LB536:

<b>2011-12</b> <b>2012-13</b> 2013-14 2014-15	Affordable Housing <u>Trust Fund</u> -0- (56,000) (245,000) (267,000)	Behavioral Health <u>Services Fund</u> -0- (14,000) (61,000) (67,000)	Homeless Shelter <u>Trust Fund</u> -0- (12,000) (51,000) (56,000)	Agency Cash Funds SUBTOTAL -0- (82,000) (357,000) (390,000)	Political Subdivisions ( <u>Counties)</u> -0- (22,000) (94,000) (102,000)	TOTAL -0- (104,000) (451,000) (492,000)
For Comparison: Documentary Stamp Tax Revenue	_	<u>FY2009-10</u> 1,808,228	<u>FY2009-10</u> 1,507,560	<u>FY2009-10</u> 10,549,756	Tax Year 2009 2,882,118	, , ,

Given assumptions applied by the Department with respect to timing and that the new exemption would represent the same impact as the average impact of current exemptions, the Department of Revenue estimates of documentary stamp tax revenue impacts associated with LB536 appear reasonable. However, impacts upon documentary stamp tax revenue would ultimately be dependent upon the incidence and value of real property transfers that may be executed by means of transfer on death deeds as well as the extent to which related real estate transfers may otherwise have been subject to documentary stamp tax collection under current law.

The Department of Health and Human Services indicates that real estate transfers by means of transfer on death deeds, as authorized by LB536, will affect asset detection for purposes of pursuing Medicaid liabilities. The Department indicates that provisions of the bill represent implications for increased workload in terms of asset detection in pursuing Medicaid liabilities as well as prospects for reductions in recovery of Medicaid liabilities, as assets of Medicaid recipients may be undetected under the authorized procedures for transfer of death deeds. The Department indicates, however, that the extent of such potential impacts is indeterminate given the uncertainty with respect to the extent to which transfer on death deeds may be utilized in the future under authority of LB536.

### DEPARTMENT OF ADMINISTRATIVE SERVICES

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	REVIEWED BY	Joe Wilcox	2/9/11	PHONE_471-2526
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### COMMENTS

No basis to dispute Dept. of Revenue analysis.

The fiscal note from the Dept. of Economic Development relative to the portion of the DOC Stamp Tax that goes to the Affordable Housing Trust is consistent with estimates from the Dept. of Revenue. No basis to disagree with DED analysis.

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### **FISCAL NOTE**

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

LEGISLATIVE FISCAL

2011

State Agency or Political	Subdivision Name:(2) Depa	rtment of Health and Hum			
Prepared by: (3) Willard Bo	uwens Date Prepa	red:(4) February 16, 2011		Phone:	(5) 471-8072
	FY 2011-	2012		FY 2012-2013	
	EXPENDITURES	REVENUE	EXPE	NDITURES	REVENUE
GENERAL FUNDS					
CASH FUNDS					
FEDERAL FUNDS					
OTHER FUNDS					
TOTAL FUNDS	See Below	\$0		See Below	\$0
Return by date specified or 7	2 hours prior to public hearing,	whichever is earlier.	_		
Explanation of Estima	ate:				
potential loss of level	nue because assets wo	JOR OBJECTS OF EXPENDIN			
PERSONAL SERVICES:	N/A	JOR OBJECTS OF EXPENDIT	URE		
	POSITION TITLE	NUMBER OF 11-12	POSITIONS 12-13	2011-2012 EXPENDITURES	2012-2013 EXPENDITURES
Benefits					
Operating			-		
Travel					
Capital Outlay	,.				
Aid					
Capital Improvements					
TOTAL				See Above	See Above

Date: 2/9/2011

FEB 0 9 2011

# FISCAL NOTE LEGISLATIVE TO LB536 Department of Economic Development

Prepared By	Young, Joseph
Date Prepared	2/8/2011
Prepared Phone	402-471-3783

### Estimate Provided By State Agency or Political Subdivision

	FY 201	1-2012	FY 2012-2013		
	Expenditures	Revenue	Expenditures	Revenue	
General Funds					
Cash Funds		0		(56,000)	
Federal Funds					
Other Funds					
Total Funds		0		(56,000)	

#### **Explanation of Estimate:**

The above estimate is based on an assumption that the new exemption would have the same impact as the average impact of the 22 current exemptions, both in terms of their use and the dollar value of the transaction. LB 537 has an operative date of Jan. 1, 2012, given that the federal estate tax is due a year after death, it is assumed that the impact on the Doc. Stamp Tax will not begin to occur until the last quarter of FY 12-13. This is the impact to the Affordable Housing Trust Fund (AHTF), which captures only \$1.20 of the \$2.25 tax, based on information obtained from the Nebraska Department of Revenue. The impact to the AHTF increases in FYs 2014 and 2015 to \$245,000 and \$267,000 respectively.

### **Major Objects of Expenditure**

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	Number	r of Positions	FY 2011-2012	FY 2012-2013 Expenditures	
Position Title	FY 2011-2012	FY 2012-2013	Expenditures		
	<del> </del>	-			
		Benefits			
		Operating			
		Travel			
		Capital outlay			
		Aid			
		Capital improvements			
		Total			

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LB 536			idia.	ille.	<b>Fiscal Note</b>	2011
		State Agency	Estimate	C711		
State Agency Name: Department of	of Revenue			** }	Date Due LFA:	1/27/11
Approved by: Douglas Ewald		Date Prepared:	1/31/11	100	Phone: 471-5700	
	FY 201	1-2012	FY 20	12-2013	FY 201:	3-2014
	<b>Expenditures</b>	<u>Revenue</u>	<b>Expenditures</b>	Revenue	<u>Expenditures</u>	<u>Revenue</u>
General Funds						
Cash Funds		\$0		(\$82,000)		(\$357,000)
Federal Funds						
Other Funds						
Total Funds		\$0		(\$82,000)		(\$357,000)

LB 536 adopts the Uniform Real Property Transfer on Death Act, which recognizes the legitimacy of nontestamentary "transfer on death deeds." The bill also adds new language to section 30-2352, which explicitly references revocations effective under article 20 of Chapter 77, as well other sections of the Nebraska Probate Code. LB 537 amends section 76-238 to provide that the recording of a transfer on death deed shall be deemed to have occurred at the transferor's death. Finally, the bill amends section 76-902 to exempt transfer on death deeds from the documentary stamp tax.

Currently, the Documentary Stamp tax rate is \$2.25 per \$1,000 of value or fraction thereof. Counties retain \$0.50 from the \$2.25 collected. Twenty-five cents of the remaining \$1.75 is credited to the Homeless Shelter Assistance Trust Fund, \$1.20 is credited to the Affordable Housing Trust Fund, and \$0.30 is credited to the Behavioral Health Services Fund.

Based on an assumption that the new exemption has the same impact as the average impact of the 22 current exemptions, both in terms of their use and the dollar value of the transaction, the estimated impact of the new exemptions is presented below. LB 537 has an operative date of January 1, 2012, given that the federal estate tax is due a year after death, it is assumed that the impact on the Documentary Stamp tax will not begin to occur until the last quarter of FY2012-13.

				Total State	
	Affordable	Behavioral	Homeless	Cash	
	Housing	Health	Shelter	Funds	County
FY2011-12	0	0	0	0	0
FY2012-13	(56,000)	(14,000)	(12,000)	(82,000)	(22,000)
FY2013-14	(245,000)	(61,000)	(51,000)	(357,000)	(94,000)
FY2014-15	(267,000)	(67,000)_	(56,000)	(390,000)	(102,000)

It is estimated that there will be no cost to the General Fund to implement this bill.

	Majo	or Objects of F	Expendit	ure			
Class Code	Classification Title	11-12 <u>FTE</u>	12-13 FTE	13-14 FTE	11-12 Expenditures	12-13 Expenditures	13-14 Expenditures
Renefite							
Operating Costs							
Capital Outlay							
					1		